App. F. IX-4

Previous References

193 0.31
(Law)

File No. 169 - 30

Serial Nos. 1 & 2

1

Later References
Law 57. 33-1+2.

(14)

General and Revenue Secretariat.

Serial Nos. Two.

Part B for July 1931.

SUBJECT.

Escheating the properties of Ameerchand

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2) To The D. C. Shimoga Dist.
" Comptroller
" Secy to Govt. Mysore Rys.
" The Financial Secy.

NO-P 380-3 & 16.7.31

Approves of the action taken by the D. C. Shimoga Dist in the matter and requests him to take early steps to get the post office S.B. amount credited to Govt

The Mahmd Aziz
& 11.8.31

G. R. S. APP F. III—1] 1930.

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 149-30.

FILE HEADING.

Escheating the Properties of Ameerchand.

FROM The D.C. Shimoga

No. 451/28-29 Dated 2.6.31 Received 9.6.31

Diary No. 5680	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that one Ameerchand Chageman, Mysore Rly. Shimoga died about 5yrs ago leaving certain Properties together with a Sum of Rs 750 in P.O.S.B. Attempts were made to trace out the heirs; but failed. Solicits Sanction of Govt to escheat the properties to the Govt. and to claim for the amount of Rs 750 which is deposited in the Saving Bank a/c.

NOTES AND ORDERS.

A proclamation is also said to have been issued by the Dist. Magte Shimoga Since no body appeared and claimed the properties they were auctioned and the proceeds credited to the Treasury. The deceased is said to have been in the Mysore Rly from 1912 to 1926 Attempts

NOTES—First Sheet.

WD 01683—GPB—5,000—3-5-29

General and Revenue Secretariat | File No. of 193 .

Serial No.

of tracing the heirs. even beyond Mysore have failed Complying In para 3 of the P.W.D. it is stated that a sum of Rs 750 has been kept in the Savings Bank a/c. and the Post Master General requires a Copy of the G.O. sheating the properties to the Govt. of Mysore before the payment is ordered.

Dft G.O. sheating the properties is put up for Consid?

TSD
Dft.

The deceased was a Kashmiri. He lived in mysore for only a period of 4 years & that too for purposes of service in the mysore Railways. It is difficult to hold that he has thereby acquired a mysore domicile.

He left certain properties within Mysore and also a sum of Rs 750/- in the Post office S.B at Shimoga. As regards the properties, since there were no heirs they were escheated to the Crown & the Amildar-magistrate of Shimoga sold them & Credited the proceeds to the Govt Treasury.

When the Dt Mgr claimed the Amount at the Post office, the Postal authorities want the Govt order entitling the Dt mgr claiming the

NOTE—Contn. Sheet.

WD 02553—G P B—50,000—8-7-30

amount by escheat. The DC ought has accordingly moved Govt for an order in this respect.

The law as regards the Crown's right to the personal estate of a deceased is that the Crown is entitled to goods which have no other owner, Commonly called bona vacantia (Halsbury Vol VII p 209). This right is recognised even in Hindu law (Mayne page 865). It is as stated in Dyce v Walford (1846 5 Moo: P.C.C 434) "one of the jura regalia which have been inherent in the Crown from the earliest times".

Generally however the succession to the moveables of an intestate is governed by the law of his domicil at the time of his death (Dicey's Conflict of laws page 749), but this rule applies only to the succession in the strict sense of the term and it has, therefore been held in Re Barnett's Trusts (1902. 1 ch 847) that "the Crown is entitled to property in England belonging to a foreigner who has died abroad intestate & without next of kin, although by the law of his domicil

such property would go to the foreign State."

The escheat, therefore, already effected in this case is legal and if the amount in the Post Office S.B can be deemed to be "property in mypore", it can also be claimed by Govt. It is however doubted in Re Higgins v Dean (1899) 1 Q.B. 325 at 332 ~~that~~ whether the Crown is entitled to things consisting purely of legal rights of action, such as debts, 'which perhaps are extinguished' If therefore the amount is 'a debt', Govt, under this principle, may not be able to claim it by escheat. It is however a point on which there is no decided authority and the Govt may therefore get a decision. In England in cases where the Crown claims a property as bona vacantia, letters of administration are taken out by the Treasury Solicitor (Halsbury Vol 11 p 30) In mypore, perhaps, the D.C. may take out either a letters of adm: or a succn certificate & claim the amount from the Post office, if they are not prepared to pay the amount otherwise.

WD 02553—50,000—GPB—8-7 30

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If approved, the Govt Advocate may also be consulted in the matter.

Legal Asst

MMP
Upa. 12/6
D.W. 12/6

Forwarded with Compliments to the Govt Advocate for favour of opinion

BO.
Narasaraja Rao 18/6
for Secy to Govt
Law Dept

U.O.No. P 8393 of 18/6/31

GOVT. ADVOCATE'S OFFICE
18 JUN 1931
BANGALORE.

Dis Mag 921/30-31
dt 12.6.31

U.O. Dis Mag 3/31-32
dt 18.7.31

Returned with compliments.

The amount now in question is a deposit in the Post Office Savings Bank at Shimoga. The order of the Post-Master General directs the District Magistrate to send him a copy of the order of the Mysore Government declaring that the amount in question has escheated to Government. There is, therefore, no need to obtain letters of Administration in a Civil Court. If the Post Office refuses to pay the amount after production of the Government Order, which is unlikely, then action will have to be taken in a Civil Court for recovery of the amount.

In England, the particular procedure of holding inquisition proceedings and obtaining letters of Administration by the Treasury Solicitor is prescribed by Statute viz., the Treasury

Solicitors'

Solicitor's Act and there is no need to follow that procedure here. That procedure is not adopted in ~~the~~ British India. (c.f. Sections - 6 and 9 of the Madras Endowments and Escheats Regulation, and sections 7 and 9 of the Bengal Charitable Endowments and Escheats Regulation). In Chitty's 'Prerogatives of the Crown', it is stated that an inquisition is generally unnecessary (page 234).

On the death of a person who leaves no - heirs, the title to his moveable properties is- governed by the 'Lex Situs'. The property, - therefore, belongs to the Crown - Dicey's Conflict of Laws, page 750 and Re: Boynetts Trusts, (1902) 1 Ch. 847. The amount in question, - therefore, belongs to the Mysore Government and they have a right to claim it from the Post Office.

Regarding the question whether debts also - escheat to the crown, there is authority for the position that they do escheat, in Trower's Book on Debtor and Creditor, at page 387. The case of Re: Higgins and Dean, (1899) 1 Q.B., 325, does not lay down that as against the Crown, any debt that may be owing to the deceased, becomes extinguished, and the facts of that case are different and have nothing to do with the facts of the present case.

The other properties of the deceased have - been rightly treated as having escheated to - Government

WD 02553—50,000—GPB—8-7 30

5 & 87

File No. of 193 | General and Revenue Secretariat

Government and the moveables available have been sold and the proceeds credited to Government.

An order of the Government declaring that the amount in question has escheated to the Government of Mysore may, under the circumstances, be passed and communicated to the District Magistrate, Shimoga, for necessary action in the matter.

Bangalore,
10-7-1931.

Government Advocate.

OFFICE OF THE SECOND MEMBER OF COUNCIL
13 JULY 1931
No. 489

Draft G O accordingly
11/7/31

A draft G.O is put up for Consideration
Chief Secy
11.7.31

13 JULY 1931

May be approved
Secon Member
13/7/31

13/7/31

14/7/31

14/7/31

14/7/31

General and Revenue Secretariat | File No. | of 193 .

Serial No.

S-0-DO-380-3 ~~dated~~ Law 145/30-2 dated 16-7-31 approving the action taken by the D.C. Shimoga in escheating the Property of the deceased Amrchand and requesting to take early steps to get the Post office S.B. amount Credited to Govt.

B

ISP

WD 02553—50,000—GPB—8-7 30

1 5680 of 30

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

No. J1. 451/28-29
one file

Dated, Shimoga.....2nd June.....1931.

Post Registered

FROM

GULAM MOHADIN MEHKRI, ESQ., B.A, LL.B.,
District Magistrate,
Shimoga District.

Law 149-30 1

To

P. Mahadevaiya, Esq., B.A., B.L.,
Secretary to Government,
Law Department, BANGALORE.

SIR,

1) In forwarding herewith the entire file of correspondence ending with memo No. 1078/33 dated the 31st March 1931 from the Post Master of Shimoga, I have the honor to state that on Ameer Chand son of Chandaram, a native of the Cashmir State, who had been employed as a Chargeman in the Mysore Railways at Shimoga fell ill in Shimoga and went to Mysore for treatment and died in the Krishna Rajendra Hospital on 21-3-1926. The properties belonging to the deceased, which had been left at Shimoga, were taken charge of by the Shimoga Railway Police and handed over to the Amildar Magistrate, of Shimoga taluk, for disposal according to law.

2) Attempts were then made to trace the heirs of the deceased and a letter addressed to Bheeta Ram the declared nominee for the provident fund of the deceased, who was reported to be residing at Town Ting road, Jammu Raisath District, Hansi, Dharmasala post was returned to the Amildar Magistrate of Shimoga taluk without delivery, as the addressee could not be found. As, in spite of the proclamation issued, no body appeared and claimed the properties, they were auctioned and the proceeds credited to Government.

3) Besides this, the deceased Ameer Chand has left a sum of Rs 750/- in the Post Office, Savings Bank account No. 13768. The District Magistrate of Jammu, who had been addressed in the matter of ascertaining the heirs of the deceased, has written to say that the heirs of the deceased are not to be found in Jammu (Vide his letter No 3752 dated 20-6-30 addressed to the Amildar

Amildar Magistrate of Shimoga).

4) The Agent, Mysore Railways, who was requested to furnish information about the deceased and his heirs wrote to say that the deceased was not a Mysorean but a Cashmeri and that he has not left any heirs in Mysore, so far as is known to him. In his letter No. 7907 dated the 12th February 1931 he has further stated that the deceased was in the Mysore Railway service from 1922 to March 1926 and that no more information about him could be furnished.

5) It is over five years since the man died and attempts to trace his heirs have failed. The Post Master-General, Madras, wants a copy of the order of the Mysore Government escheating the amount kept in the Post office Savings Bank for reference before payment could be ordered. As the deceased has left no heirs and lived in the Mysore State for nearly 4 years as an employee under the Railway Department before his death, I request you kindly to obtain orders of Government to the amount being escheated to Government..

6) On receipt of orders of Government in the matter. I shall prefer a claim for the amount, on behalf of Government.

I have the honor to be,
Sir,
Your most obedient servant,

M Venkatarangaiya
District Magistrate,
Shimoga District.

NP.

(copy contd.)

G.R.S. App. F VI G-2]

SUBJECT .....

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Diary No. of letter replied to.....

Sec. Law

File No. 149-30

Serial No. 2

General and Revenue Secretariat

( )

the *193* .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 16-7-31

Signed by .....

Read—

Letter No. J1-451/28-29 dated 2nd June 1931 from the District Magistrate, Shimoga, intimating that one Amerchand, son of Chandaram, an employee in the Mysore Railways at Shimoga, ~~Order Thereon No.~~ died in the Krishnarajendra Hospital Mysore on 21st March 1926, that the properties left by the deceased at Shimoga were sold by the Tasildar Magistrate and the proceeds credited to Government, since there was no heirs of the deceased claiming

May this be

(i) Printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

the property, that the deceased has also left a sum of Rs 750/- in the Post office Savings Bank account No: 13768, and ~~that~~ requesting orders of Government ~~a claim was made for payment~~ escheating the amount, in order ~~the Postmaster General stated~~ that a claim for the same may be preferred on behalf of Government.

Revenue

P 380-3

order.

Since it is reported that the deceased Ameerchand has left behind him no legal heirs, ~~to claim his property~~, all his property, including the amount due in the Shimoga Post office Savings Bank account No: 13768, escheats to the Durbar, under the law in force in Mysore, ~~and~~ the action taken as regards the property left by the deceased ~~by the District Magistrate~~ at Shimoga, is accordingly approved and ~~sanctioned~~ to ~~have a claim for the~~

List of enclosure

Copied by

Examined by

WD 02560—GPB—11,250—2-7-30

G R. S. App F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

the District magistrate, Shimoga is requested to take early steps to get the ~~amount~~ Post office Savings Bank amount credited to Government:

NLL

Chief Secretary

BMP
11/7

1) The D.C. Shimoga, with the enclosures for disposal.
2) The Comptroller for wt ~~Rs~~.
3) The Secy to Govt, mysore Rys.
4) The Financial Secy

WD 0827—G PB—10,000—16-5-27

6 END

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Read:—

Letter No. J.1-451 of 1928-29 dated the 2nd June 1931 from the District Magistrate, Shimoga, intimating that one Amerchand, son of Chandaram, an employee in the Mysore Railways at Shimoga, died in the Krishnarajendra Hospital, Mysore, on 21st March 1926, that the properties left by the deceased at Shimoga were sold by the Amildar-Magistrate and the proceeds credited to Government, since there was no heirs of the deceased claiming the property, that the deceased has also left a sum of Rs. 750/- in the Post Office Savings Bank Account No. 13768, and requesting orders of Government escheating the amount, in order that a ~~xxx~~ claim for the same may be preferred on behalf of Government.

Order No.

Dated, Bangalore, the 15th July 1931.

Since it is reported that the deceased Amerchand has left behind him no legal heirs, all his property, including the amount due in the Shimoga Post Office Savings Bank Account No. 13768, escheats to the Durbar, under the law in force in Mysore. The action taken as regards the property left by the deceased at Shimoga, is accordingly approved and the District Magistrate, Shimoga, is requested to take early steps to get the Post Office Savings Bank amount credited to Government.

M Para Reo

Chief Secretary to Government.

To

The District Magistrate, Shimoga, with TSD enclosures to his letter.

The Comptroller to Government.
The Secretary to Government, Mysore Railways.
The Financial Secretary to Government.

C.R.G.6.